

Supreme Court of Kentucky

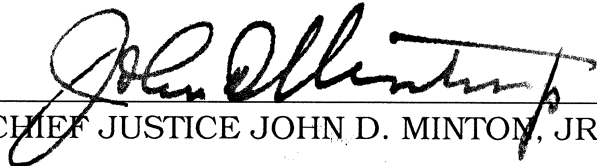
ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND
PROCEDURE FOR THE 43RD JUDICIAL CIRCUIT, FAMILY
COURT DIVISION, BARREN AND METCALFE COUNTIES**

Upon recommendation of the Judges of the 43rd Judicial Circuit, and
being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 43rd Judicial Circuit,
Family Court Division, Barren and Metcalfe counties, are hereby approved.
This order shall be effective as of the date of this Order, and shall remain in
effect until further orders of this Court.

Entered this the 22nd day of March 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

FAMILY COURT RULES
for the
FORTY-THIRD
JUDICIAL CIRCUIT

BARREN AND METCALFE
COUNTIES

2012

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RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101 Preface

These Family Court Rules shall govern all family law proceedings in the 43rd Judicial Circuit unless they conflict with any statute or other law of the United States or Commonwealth of Kentucky, at any time legally adopted, in which event any such statute, law, rule, or order shall at all times prevail. All domestic relations local rules previously in effect in the 43rd Judicial Circuit are hereby rescinded.

102 Effective Date

These rules shall become effective thirty (30) days after Kentucky Supreme Court approval.

103 Citation

These rules shall be cited "FC 43 Rule ____".

104 Holidays

Holiday schedules may be obtained by telephoning Family Court staff at (270) 651-9923.

105 Schedule

A. Regular Barren County Schedule

MONDAY	8:30 – 10:00	JUVENILE STATUS
	10:00 – 11:00:	PATERNITY AND CHILD SUPPORT
	11:00 – 12:00:	CHILD SUPPORT (DIVORCE CASES)
	12:00 – 1:00:	LUNCH
	1:00 – 4:00:	DISPOSITION HEARINGS, AND REVIEWS (DEPENDENCY CASES)
TUESDAY	8:30 – 12:00:	ADJUDICATION (DEPENDENCY) AND MISCELLANEOUS HEARINGS
	12:00 – 1:00:	LUNCH
	1:00 – 4:00:	ADJUDICATION (DEPENDENCY) AND MISCELLANEOUS HEARINGS
WEDNESDAY	8:30 – 12:00:	CIVIL MOTIONS, PRE-TRIAL CONFERENCES, TRIALS AND SETTLEMENT CONFERENCES

12:00 – 1:00: LUNCH
1:00 – 4:00: CIVIL MOTIONS, PRE-TRIAL
CONFERENCES, TRIALS AND
SETTLEMENT CONFERENCES

THURSDAY METCALFE COUNTY (See Section B. below)

FRIDAY 8:30 – 12:00: DOMESTIC VIOLENCE
12:00 – 1:00: LUNCH
1:00 – 4:00: TRIALS AND MISCELLANEOUS
HEARINGS

B. Regular Metcalfe County Schedule

THURSDAY

8:00 – 8:45: PATERNITY AND CHILD SUPPORT
(COUNTY ATTORNEY CASES)
8:45 – 11:00: JUVENILES
JUVENILE STATUS
DEPENDENCY, NEGLECT, AND ABUSE
ARRAIGNMENTS
TEMPORARY REMOVAL HEARINGS
ADJUDICATIONS
DISPOSITIONS
REVIEWS
11:00 – 12:00: DOMESTIC VIOLENCE
12:00 – 1:00: LUNCH
1:00 – 4:00: MOTIONS TO SUBMIT,
PRE-TRIAL MOTIONS,
SETTLEMENT CONFERENCES,
PRE-TRIAL CONFERENCES, TRIALS,
AND MISCELLANEOUS HEARINGS

RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

201 General

The attorney of record for a moving party forthwith shall notify the Family Court staff (whose telephone number is [270] 651-9923) whenever any motion or any proceeding (previously docketed for hearing) shall not be heard, whether because of agreement of the parties or because of any other reason.

202 Docketing

- A. To docket a motion for hearing, movant, by counsel or *pro se*, shall telephone the Family Court staff at (270) 651-9923 and furnish the correct telephone number for all opposing counsel so as to enable the Family Court staff to initiate one or more telephone calls (preferably a telephone conference call) to ascertain the earliest available hearing date and time, accommodating the schedules of all counsel to the action; provided, however, that during such scheduling telephone call or calls the movant and all opposing counsel in good faith shall arrive at an estimate for the length of the entire hearing so that the Family Court staff on behalf of the movant can reserve the estimated time accordingly when docketing the subject motion.
- B. All motions shall include above the signature line for counsel or the self-represented movant the following declaration: "The undersigned estimates that this hearing in its entirety will require approximately _____ minutes for which the undersigned has reserved time on the docket."
- C.
 - 1. Each motion (except a motion to schedule an event) shall include citation of authority (e.g., the controlling statute or published decision or rule of procedure).
 - 2. Each motion (except a motion to schedule an event) shall be accompanied by a separate tendered proposed order which shall include citation of authority (e.g., the controlling statute or published decision or rule of procedure), and the court in its discretion may deny any motion which is noncompliant herewith.
- D. The court shall apply the provisions in FC 43 Rule 202 in a manner not inconsistent with the provisions of KRS 403.160.

203 Deadline for Filing and Serving Motions

- A.
 - 1. A moving party, by counsel or *pro se*, shall file an original motion and serve a copy thereof no later than closing time in the Clerk's Office seven (7) calendar days immediately preceding the day upon which the motion shall be heard.
 - 2. If sixty (60) days have expired since the date of entry of the most recent order, any notice shall be served on both the opposing attorney and the party at his or her last known address.

- B. The court shall hear no motion which has not been docketed for hearing by the Family Court staff (whose telephone number is [270] 651-9923), and, except for good cause shown, the court shall hear no motion which has not been timely filed and served thereafter.

204 Motions for Modification or Enforcement of Prior Orders

Any motion filed referring to a previous order or decree (including but not limited to requests for modification or enforcement thereof) shall identify the relevant section of such previous order or decree with particularity including declaration of the date of entry of such order or decree.

205 Settlement Conferences, Pre-Trial Conferences, and Pre-Trial Orders

- A. Parties may schedule informal Settlement Conferences by telephone conference call to the Family Court staff at (270) 651-9923, following each of which counsel shall tender for entry the appropriate Order Setting Settlement Conference.
- B. At the close of each settlement conference the court shall make an appropriate order which *may* include setting a pre-trial conference.
- C.
 - 1. Parties may schedule Pre-Trial Conferences by telephone conference call to the Family Court staff at (270) 651-9923, following each of which the court shall make the appropriate Order Setting Pre-Trial Conference.
 - 2. In marital dissolution actions an Order Setting Pre-Trial Conference shall include a requirement that all parties shall file and serve no later than ten (10) days before the pre-trial conference Form AOC-238 "Preliminary Verified Disclosure Statement" (unless the parties have exchanged such statements earlier in accordance with FCRPP 2 [3]).
- D. At the close of each pre-trial conference the court shall make a Pre-Trial Order.
 - 1. A pre-trial order *may* include requirements that the parties tender proposed Findings of Fact, Conclusions of Law, and Order at the beginning of the evidentiary hearing or pursuant to an order concerning post-trial compliance.
 - 2. In marital dissolution actions concerning property matters a pre-trial order shall include a requirement that all parties shall file and serve no later than ten (10) days before the trial Form AOC-239 "Final Verified Disclosure Statement" in accordance with FCRPP 3 (3) (b).
 - 3. A pre-trial order shall limit the time reserved for the entire evidentiary hearing or trial, and such pre-trial order *may* include allocation of time to the parties for presentation of evidence-in-chief (including rebuttal) in a designated sequence, and, except as otherwise provided, such allocation of time shall be subject to the following terms and conditions:

- a. the allocation of time for presentation of evidence-in-chief (including rebuttal) shall not include time for such party's opening statement or, if applicable, closing argument;
- b. subject to enforcement by sanctions in the discretion of the court (including but not limited to striking testimony), each party shall announce the call of such party's final witness so that the court may allocate to the adverse party or parties for cross-examination of such witness time not to exceed one-half (1/2) of the party's time remaining for presentation of evidence-in-chief (excluding time reserved for such party's presentation of rebuttal); and,
- c. upon oral motion by any party the court in its discretion and otherwise according to law may limit or restrict the scope or duration of a party's cross-examination if it appears to the court that such cross-examination is being conducted in a dilatory manner or otherwise not in good faith.

RULE 3 ADOPTIONS / TERMINATION OF PARENTAL RIGHTS

301 Appointment of Counsel and Guardians *ad Litem* in Actions for Termination of Parental Rights

- A. Counsel for petitioner shall send Family Court Judge by FAX (at [270] 651-5524) a copy of each petition not later than the time of filing such petition with the clerk.
- B. At the time of filing each petition, the clerk shall deliver the file to the Family Court staff who shall procure appointment of counsel as required by law.
- C. Except for good cause shown, the attorney who shall be appointed pursuant to KRS 625.0405 or KRS 625.041 or KRS 625.080 to represent an indigent parent or (as Guardian *ad Litem*) to represent the best interest of the child shall be the same attorney (or otherwise a member of the law firm of the same attorney) who served as counsel for the same parent or child in a dependency, neglect, and abuse action by court appointment pursuant to KRS 620.100.

**RULE 4 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS
POLICY**

The Domestic Violence Protocol and Twenty-Four Hour Access Policy for the 43rd Judicial Circuit and District is attached hereto as Appendix A and incorporated by reference herein.

RULE 5 PATERNITY

501 Genetic Tests

Subject to FCRPP 15, in actions commenced under KRS Chapter 406 (Uniform Act on Paternity), the mother, child, and alleged father shall submit to genetic tests as defined in KRS 406.005 (2) if ordered by the Court, and the County Attorney may tender an *ex parte* order scheduling such genetic tests.

502 Parents' Education Clinic

Where the parties have minor children, the petitioner shall, within 20 days after the response has been filed, tender an Order to the Court requiring the parties to attend parent education classes. The Order shall state that the parties have 10 days from entry of the Order to file an objection requesting a hearing. If no objection and request for hearing is filed, the order shall become immediately effective, and the plaintiff and the defendant shall file in the record of the subject paternity action a certificate of completion of the Parents' Education Clinic (or a divorce education program which is the substantial equivalent thereof), as contemplated in FC 43 Rule 704, not later than ninety (90) days after the occurrence of the latter of the following events: (a) entry of the paternity judgment; or (b) release of either or both parties who were incarcerated at the time of entry of the paternity judgment.

503 Matters Concerning Welfare and Custody and Visitation of Children

- A. All parties in paternity actions shall refer to the Guidelines for Parenting Conduct located in Appendix B in accordance with FC 43 Rule 702.
- B. All parties in paternity actions shall procure entry of a custody and visitation order. See the Parenting Time/Visitation Schedule located in Appendix C. in accordance with the provisions of FC 43 Rule 707 not later than ninety (90) days after the occurrence of the latter of the following events: (a) entry of the paternity judgment; or (b) release of either or both parties who were incarcerated at the time of entry of the paternity judgment.

RULE 6 DEPENDENCY, NEGLECT, AND ABUSE

601 Access to Records by Counsel in Juvenile Dependency Actions

Unless otherwise ordered by the court, each guardian *ad litem* and each counsel of record for a child and each counsel of record for any parent of such child, and each counsel of record for any person exercising custodial control or supervision of such child in any juvenile dependency, neglect, and abuse action pursuant to KRS Chapter 620 shall have access to all petitions, affidavits, summonses, pleadings, motions, exhibits, memoranda, orders, and all other papers in the record in any and all actions relating to such child brought pursuant to the Kentucky Unified Juvenile Code (KRS Chapters 600 through 645).

602 Notice Concerning Paternity Determination

In a dependency, neglect, and abuse action, the Kentucky Cabinet for Health and Family Services shall assure that each case plan or other remedial contract requiring compliance by a parent of a child born out-of-wedlock shall include a notice of rights regarding KRS Chapter 406 and the procurement of a paternity judgment.

RULE 7 DOMESTIC RELATIONS PRACTICE

701 *Status Quo* Orders

So as to give effect to FCRPP 2 (5), with respect to all marital dissolution actions commenced on or after January 1, 2011, at the initial court appearance the petitioner shall tender to the court for entry a properly completed Form AOC-237, "*Status Quo* Order," on which the following language shall appear after the phrase "Other Orders:" "See attached Addendum;" and the text of such attached Addendum shall provide as follows:

ADDENDUM

Neither party shall incur additional debt in his or her own name or the name of his or her spouse without first receiving the permission of the court or filing with the court an agreed order signed by both parties and their attorneys (if any) except that either spouse may incur debt associated with the reasonable cost of living. The law does not define what is "reasonable" or in the "ordinary" course of business, and the court will not prejudge these matters; however, when incurring debt for ordinary living necessities, the parties should keep in mind that they are in a dissolution proceeding and, therefore, what was a reasonable expense or debt during the marriage may not be reasonable under these circumstances. The parties are encouraged to consult with their attorneys (if any) before incurring any debt which they think may violate the order.

702 Guidelines for Parental Conduct

Parties with minor children are advised to refer to Appendix B. for Guidelines regarding general Parenting Conduct and Behavior,

703 Required Case Information

A Case Data Information sheet (Form AOC-FC-3) shall be filed with the petition for dissolution of marriage.

704 Appearances, Waivers, and Agreements

- A. Any unrepresented party who signs and acknowledges an appearance and waiver or agreement shall do so before a notary or deputy clerk.
- B. All Agreements and Agreed Orders shall contain the correct telephone number and mailing and e-mail addresses for the attorneys.

705 Parents' Education Clinic

- A. In accordance with FCRPP 3 (5), where the parties have minor children, the petitioner shall, within 20 days after the response has been filed, tender an Order to the Court requiring the

parties to attend parent education classes. The Order shall state that the parties have 10 days from entry of the Order to file an objection requesting a hearing. If no objection and request for hearing is filed, the order shall become immediately effective. When such an order is effective, an action for dissolution of marriage shall not be docketed for hearing on a motion to submit for entry of decree until each party has filed a certificate of completion of the Parents' Education Clinic ("PEC") (or its substantial equivalent); provided, however, that if one party refuses or fails to attend the clinic and file the certificate as required herein, in the compliant party's motion to submit such party shall include a statement that to the best of such party's information and belief, the Parents' Education Clinic has been available for attendance on at least one occasion subsequent to the occasion on which the compliant party attended a session thereof.

- B. If a party refuses or fails to attend the clinic, the court may make such orders in regard to the failure or refusal as are just, including but not limited to the following: (i) an order declining to set or enforce permanent visitation rights for the noncompliant party until the noncompliant party attends the clinic; (ii) an order reserving the granting or approval of final custody; and (iii) in lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey an order to attend the Parents' Education Clinic.
- C. A party may comply with the requirements of FC 43 Rule 705 A. by filing a photocopy of the certificate of completion of the Parents' Education Clinic which such party may have filed in the record of a separate action.
- D. If the parties have been previously referred to professional counseling regarding custody and visitation (with such counseling including training for the exclusion of the child or children from parental disputes), the court may, upon the written recommendation of such counselor, waive the requirement that the parties attend the clinic.

706 Mandatory Appearances at Hearings on Motions to Submit

Except for good cause shown, the provisions of FCRPP 2 (1) (g) and FCRPP 3 (1) (a) notwithstanding, the court shall not enter a decree of dissolution of marriage except after a hearing on a motion to submit for entry thereof, and except for good cause shown, all parties to an action for dissolution of marriage shall appear in person at such hearing on the motion to submit for entry of decree.

707 Time-Sharing/Visitation Schedule

See Appendix C for the 43rd Judicial Circuit Time-Sharing/Visitation Schedule. This schedule is suggested as guidelines for the parents and the court in establishing temporary or permanent time-sharing/visitation schedules. Each case will present unique facts or circumstances which shall be considered by the court in establishing a time-sharing/visitation schedule and the final schedule established by the court or agreed to by the parents may or may not be what these guidelines suggest.

RULE 8 STATUS OFFENSES

There are no local rules pertaining to Status Offenses. For statewide uniform rules see FCRPP 37 through FCRPP 44.

RULE 9 MISCELLANEOUS

901 Protection of Personal Identifiers

- A. The Family Court case data sheet shall be fully completed in all cases. In addition, all pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407 by providing the personal identifying information required in those chapters. However, except as set forth in paragraph B below, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court pursuant to the above-stated chapters, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific orders of the court.

As used in this section, "personal identifier" means a Social Security number or taxpayer identification number, date of birth, or financial account number.

- B. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall be governed by KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108, and by any applicable rule.

902 Consolidation of Actions

When more than one child support, custody, visitation, paternity, or marital dissolution actions involving the same individual parties are commenced or are otherwise pending simultaneously in Family Court, so as to promote judicial economy or the interest of justice, on its own motion or on motion of any party the court may consolidate two or more of such actions into a single action which shall be deemed the surviving action in which the court shall designate and align the parties according to their interests; whereupon, if any of the actions so consolidated previously was not confidential, the surviving action (except for such portions thereof as the court in its discretion may seal) shall have no confidential character.

903 *In Forma Pauperis* Qualification

Any party who has qualified for representation by Kentucky Legal Aid may proceed in the action *in forma pauperis* under the provisions of KRS 453.190 and may prosecute the subject action without payment of any cost; provided, however, that the court may review the party's qualification for *in forma pauperis* treatment at any time on its own motion.

904 Retrieval of Exhibits

With respect to any evidentiary hearing conducted at any time during an action in which the court enters a final order, except for good cause shown by any party, not earlier than ten (10) days and not later than forty-five (45) days following the latter to occur of (i) the expiration of time within which any party may file a notice of appeal from such final order (if no party has timely filed such notice of appeal) or (ii) the finality of the last available order of any appellate court with jurisdiction therein (excepting an order remanding the action to this court for further adjudication), each party, by counsel or *pro se* (if the party is self-represented), shall tender to the court for entry an *ex parte* order authorizing the clerk of this court to permit such party, by counsel or *pro se*, after such party's prior arrangement with the clerk and upon due execution of receipt therefore, to return to such party, by counsel or *pro se*, on demand (not later than thirty [30] days thereafter) all exhibits introduced into evidence by such party at each evidentiary hearing which the court has conducted in such action.

905 Exclusion of Minors from Court Room (and Exceptions)

Except for adoption actions and status offense actions, and except as otherwise required or authorized by Law and the Family Court judge, minors (being persons under eighteen [18] years of age) shall not be admitted to the court room during a hearing therein, and persons attending a hearing who are persons exercising custodial control or supervision over minors shall not bring with them to the court house minors whom this rule excludes from the court room. If a child in an action involving KRS Chapter 620 or 625 wishes to assert his or her right to appear pursuant to KRS 610.060(3) or KRS 610.070, the Guardian *ad litem* shall seek the permission of the Court prior to the appearance of the child.

906 Standards of Attire

- A. Under penalty of contempt of court persons shall comply strictly with the following standards of attire:
 - 1. No person shall enter the court room without wearing shoes or without wearing a shirt or blouse or dress;
 - 2. No person shall enter the court room wearing the following articles of clothing: shorts; mini-skirt; tank top; tube top; or spaghetti straps;
 - 3. No person shall enter the court room wearing any article of clothing (a) displaying profane, blasphemous, vulgar, lewd, racist, or hateful images or other symbols or language or (b) otherwise indecent in any manner; and
 - 4. Except when wearing such article of clothing is a religious practice or a conventional cosmetic practice for persons recovering from treatment for a disease, no person shall enter the court room wearing sunglasses or a cap or a hat or other headgear.
- B. In addition to subjection to penalty for contempt of court, in the discretion of the court persons violating this rule may be compelled to visit the public restroom in the court

house to reverse or otherwise to rearrange their articles of clothing so that such articles no longer display visible violations of this rule.


907 Use or Possession of Electronic Devices in Court Room

Under penalty of contempt of court no person shall maintain inside the court room any cellular telephone (or other electronic device) in any manner which may interfere with or disrupt the orderly transaction of the business of the court or the normal operation of the court's recording equipment.



Judge Mitchell Nance

MAR 16 2012
Date



Judge Phillip Patton

MAR 16 2012
Date

APPENDIX A

**TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY
PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC
VIOLENCE PROTOCOL
43RD JUDICIAL CIRCUIT AND DISTRICT
BARREN AND METCALFE COUNTIES**

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

I. Preamble

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

II. Uniform Protocol for Handling Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence cases are civil matters within the purview of CR 41.01, and therefore a petitioner shall not be held or be subject to threats or intimidation of being held in contempt for failing to appear at a domestic violence hearing or failing to prosecute a criminal violation of a protective order.
- D. Domestic violence cases shall be reassigned or transferred to another circuit under the following circumstances:
 - 1. The Family Court Judge in his discretion shall determine reassignment to another county on a case-by-case basis.
 - 2. Consistent with FCRPP 12, the court in its discretion may transfer a domestic violence action to another circuit due to a pending dissolution or custody matter, and an emergency protective order shall remain in full force and effect and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not

to exceed fourteen (14) days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court to which such action has been transferred in accordance herewith.

III. Twenty-Four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:
 - 1. Barren County: The Barren Circuit/District Clerk, or Deputy Clerk, with or without the assistance of the Barren County Victim Advocate, shall *assist* moving parties in processing the petition.
 - 2. Metcalfe County: The Metcalfe Circuit/District Clerk, or Deputy Clerk, shall *assist* moving parties in processing the petitions.
- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:
 - 1. Barren County: The Victim Advocate (or, in her absence, the County Attorney or his or her assistant) shall *assist* moving parties in preparing the domestic violence petition.
 - 2. Metcalfe County: The Domestic Violence Intake Assistant (or, in her absence, the County Attorney or his or her assistant) shall *assist* moving parties in preparing the domestic violence petition. In the event that Metcalfe County should acquire a Victim Advocate, then the Victim Advocate shall *assist* moving parties in preparing the domestic violence petition.
- C.
 - 1. The Family Court staff shall furnish the appropriate parties listed in the previous paragraphs with a schedule of available dates and times for hearings on the domestic violence docket in Family Court, so as to enable the petition preparers to assign an appropriate date and time for a domestic violence hearing.
 - 2. The Circuit Clerk shall file the petition (and any Emergency Protection Order issued) as a domestic violence "D" case in the Family Court, regardless of which District Judge, Trial Commissioner, Circuit Judge or Family Court Judge ordered the filing of the petition. The clerk shall calendar the hearing by completing a scheduled event screen in the case management system and communicate to the Family Court staff the case number, style, and date and time such shall be docketed for hearing pursuant to KRS 403.745.
- D. Upon receipt of a petition at any time, the authorized agency/officer shall present the petition to the following officials (in the following sequence depending on availability) for review within an hour of presentation:
 - 1. Any District Court Judge or Trial Commissioner;

2. Family Court Judge; or
 3. Circuit Court Judge
- E. To facilitate the review of a domestic violence petition when no trial commissioner or judge is locally accessible, the petition may be delivered by FAX, *if* that method of communication is available, to and from the Trial Commissioner, District Court Judge, Family Court Judge, or Circuit Court Judge for review and to order the case to be filed; provided, however, that the *original* documents bearing *original* signatures shall be delivered as soon as practicable to the Circuit Clerk's Office for filing and entry.
- F. The schedule for Domestic Violence hearings is as follows:
1. Barren County Domestic Violence Cases are generally heard every Friday from 8:30 a.m. until 12:00 O'clock Noon, Central Time.
 2. Metcalfe County Domestic Violence Cases are generally heard every Thursday at 11:00 a.m., Central Time.

IV. Contempt Proceedings

- A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Persons seeking to initiate contempt proceedings should contact:
1. The Barren Family Court staff shall *assist* aggrieved parties in processing affidavits supporting Domestic Violence Show Cause Orders. The Family Court staff shall prescribe procedures for docketing such matters for hearing by the Family Court Judge.
 2. The Metcalfe Circuit Clerk's office shall *assist* aggrieved parties in processing affidavits supporting Domestic Violence Show Cause Orders. The Family Court staff shall prescribe procedures for docketing such matters for hearing by the Family Court Judge.
- C. Nothing in this protocol shall be deemed to restrict the power of the Commonwealth to prosecute any person for the commission of any offense other than violation of a protective order in violation of KRS 403.763.
- D. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

V. Amendment

- A. The Barren Family Court staff shall *assist* moving parties in processing motions to amend domestic violence orders. The Family Court staff shall prescribe procedures for docketing such matters for hearing by the Family Court Judge.


- B. The Metcalfe Circuit Clerk's office shall *assist* moving parties in processing motions to amend domestic violence orders. The Family Court staff shall prescribe procedures for docketing such matters for hearing by the Family Court Judge.

All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

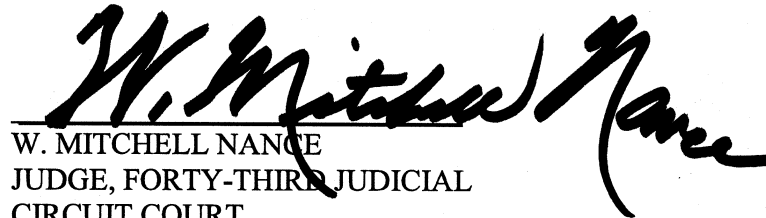
The above protocol is adopted by all judges in the circuit/district:

This the _____ .

MAR 16 2012



PHILLIP R. PATTON
JUDGE, FORTY-THIRD JUDICIAL
CIRCUIT COURT
FIRST DIVISION



W. MITCHELL NANCE
JUDGE, FORTY-THIRD JUDICIAL
CIRCUIT COURT
SECOND DIVISION
(FAMILY COURT)



JOHN T. ALEXANDER
JUDGE, FORTY-THIRD JUDICIAL
DISTRICT COURT

APPENDIX B

Parental Conduct Guidelines

If the parties have any minor children, the parties shall comply with the following guidelines concerning the treatment of those children:

The parties shall as far as possible leave the child out of the court proceedings. It is wrong to involve the child in the parties' disagreements. The child is undergoing enough stress without being brought directly into his or her parents' disputes.

Specifically,

- the parties shall not use the child to send messages, property, letters, checks, or other items to each other;
- the parties shall be civil to one another in the presence of the child, and shall not discuss the court proceedings, or the cause of the court proceedings, in the presence or hearing of the child;
- clothes, toys, and other property used primarily by the child shall be sent with the child on visitations as needed, including adequate and appropriate clothing, and such property shall be returned with the child;
- the parties shall not unduly involve the children in their dispute in any other way; and,
- no party may remove the child from the Commonwealth of Kentucky for any period longer than twenty-four (24) consecutive hours without permission by court order except for medical or family emergency.

The parties are reminded that visitation is the right of the child as well as of the parent.

The parties are also reminded to avoid disorderly custodial behavior. No party may exercise such party's rights as sole custodian or joint custodian concerning the education, health care, or religious training, or athletic, cultural, or recreational activities, of one or more children of the parties in any manner constituting vexatious or harassing conduct with respect to any party or to any individual or institutional third party.

These are guidelines regarding parenting conduct that should continue until the subject child's emancipation.

APPENDIX C

Shared Parenting / Visitation Schedule and Conditions

As delineated in FC 43 Rule 707, this schedule is suggested as guidelines for the parents and the court in establishing temporary or permanent time-sharing/visitation schedules. Each case will present unique facts or circumstances which shall be considered by the court in establishing a time-sharing/visitation schedule and the final schedule established by the court or agreed to by the parents may or may not be what these guidelines suggest.

A. General Conditions

1. Except as otherwise provided, in the event of conflict or inconsistency, any custodial or parenting time awarded for holidays or other special occasions shall have precedence over custodial or parenting time awarded for general occasions or for other days.
2. Each party exercising custodial control of the parties' child shall assure the child's timely transportation for participation in any and all of such child's regular school and organized academic, religious, athletic, cultural, or recreational extracurricular activities, all of which shall have precedence over the parent's exercise of custodial control of the parties' child.

B. The court may effectuate the requirements of FCRPP 8 by considering (1) the provisions of FCRPP Appendix A "Model Time-Sharing/Visitation Guidelines," [hereinafter, "Appendix A," in PLAN 1], or (2) the provisions of the following visitation schedule [hereinafter, "Primary Alternate," in PLAN 2] or (3) any appropriate variation thereof; *provided, however*, that all times shall be the times in the time zone where the child primarily resides:

1. PLAN 1: "FCRPP Appendix A"
2. PLAN 2: "Primary Alternate"

The following visitation schedule shall be implemented (in which, as the context may require, the term "custodial parent" shall mean "primary residential parent" or "sole custodian," and the term "non-custodial parent" shall include the parent other than the primary residential parent):

- a. Alternate weekends from Friday evenings at 6:00 p.m. to Sunday evenings at 6:00 p.m.; Thursday evenings following the weekend visit from 5:30 p.m. to 7:30 p.m.
- b. The children, and/or the custodial parent, have no duty to await the visiting parent for more than thirty (30) minutes of the visitation time. A parent more than thirty (30) minutes late shall forfeit that visitation period. The custodial parent has the right to refuse visitation if the non-custodial parent is under the influence of intoxicants or drugs.

- c. (1) For the purpose of visitation, the following six (6) holidays shall be divided between the parents:

(A) New Years Day	(B) Martin Luther King Day
(C) Easter	(D) Memorial Day
(E) July 4 th	(F) Labor Day

- (2) Other holidays of importance to the family shall also be divided between the parties, e.g.:

(A) Purim	(D) Alternate nights of Hanukkah beginning with the first night
(B) Second Night of Passover	(E) Rosh Hashanah
(C) Alternate nights of Hanukkah beginning with the second night	(F) The first night of Passover
	(G) Simchas Torah

- (3) In the odd-numbered years (*e. g.*, 2011) the mother shall have the children on the left column holidays, and the father shall have the children on the right column holidays. In the even-numbered years (*e. g.*, 2012) the father shall have the children on the left column holidays and the mother shall have the children on the right column holidays. Visitation shall be from 8:00 a.m. to 6:00 p.m., unless the child is in the school that day, in which case visitation shall be from 5:00 p.m. to 7:00 p.m.

- d. (1) In the odd-numbered years (*e. g.*, 2011) the mother shall have the children for the four (4) day Thanksgiving holiday, and in the even-numbered years (*e. g.*, 2012) the father shall have the children for the four (4) day Thanksgiving holiday. Visitation shall begin at 9:00 a.m. Thursday morning and end at 7:30 p.m. Sunday evening. For children under the age of one (1) year, visitation shall begin at 9:00 a.m. Thursday and end at 7:30 p.m. Saturday. In the event that the child is not yet enrolled in school, the non-custodial parent shall have visitation with the child on alternating Thanksgiving holidays.

- (2) Each year at Christmas the custodial parent shall have the children on Christmas Day and the non-custodial parent shall have the children from 1:00 p.m. to 9:00 p.m. on Christmas Eve. The non-custodial parent also shall have the children from December 26th through December 31st, provided the children are returned to the custodial parent not less than 24 hours before they are to resume school.

- e. On Mother's Day and Father's Day, no matter whose turn for visitation, the children shall be with the appropriate parent on those days. Visitation shall be from 8:00 a.m. to 6:00 p.m.

- f. A four-week (4) visitation each summer for children four years or older provided there shall be no continuous visitation of longer than two weeks at a time. For children age two (2) to four (4) years the non-custodial parent shall have two weeks visitation. For children between the ages of one (1) and two (2) there shall be one week of visitation. For a child under the age of one (1) the non-custodial parent may have visitation for three (3) days. Each party shall give the other

party at least sixty (60) days notice of his or her vacation schedule so that both parties have an opportunity to have the children during his or her vacation from work.

- g. The child shall celebrate his/her birthday in the home of the custodial parent, unless it falls on a visitation day. In the event the non-custodial parent does not have the child on his/her birthday, an additional, non-scheduled, visitation day shall be granted so that the non-custodial parent may give the child a birthday party, if desired.
- h. (1) In alternating years, the non-custodial parent shall have the children for a week of any spring break which the children may have from school, provided the children are returned to the custodial parent no less than 24 hours before they are to resume school. Unless otherwise agreed, the first spring break vacation with the non-custodial parent shall be in the calendar year after the one in which the decree is granted. Should Easter fall during a spring break when the child is with the custodial parent and it is the non-custodial parent's turn to have visitation with the child for Easter vacation, then an additional, non-scheduled visitation day shall be granted to the non-custodial parent.

(2) During the fall break of each academic year (defined, normally, as the period during which school is in session from August through May of the next calendar year), the parent who does *not* exercise custodial control or supervision (or parenting time) of the child during the spring break of the next preceding academic year shall exercise custodial control or supervision (or parenting time) of the child in accordance with the same terms prescribed herein for spring break.
- i. The non-custodial parent is required to secure the child in a child restraint system transporting the child, as provided in KRS 189.125 (3) or any amendments thereto.
- j. Pursuant to FCRPP 7(2), the residence of the children is not to be removed from the State of Kentucky without first obtaining a modified visitation order from the court.